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TO RUEHC/SECSTATE WASHDC PRIORITY 1284  
INFO RUEHBY/AMEMBASSY CANBERRA 2250  
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RUEHKN/AMEMBASSY KOLONIA 0337  
RUEHKB/AMEMBASSY KOROR 0221  
RUEHLO/AMEMBASSY LONDON 0178  
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RUEHAP/AMEMBASSY APIA 0268  
RUEHDN/AMCONSUL SYDNEY 1103  
RUCNDT/USMISSION USUN NEW YORK 0431  
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UNCLAS SECTION 01 OF 02 SUVA 000219

SENSITIVE

SIPDIS

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E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [PINR](#) [KDEM](#) [FJ](#)

SUBJECT: FIJI DE FACTO GOVERNMENT APPOINTS JUDGES AND WEAKENS LAW SOCIETY

REFS: A) Suva 124 B) Suva 131

FIJI JUDICIARY SLOWLY REPLENISHED

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11. (SBU) On May 22, Fiji's senior judicial positions were partially repopulated, as the de facto government appointed a new Chief Justice and four Judges of the High Court six weeks after the constitution was abrogated and the judiciary sacked on April 10 (reftel B). Five High Court Judges led by reappointed Chief Justice Anthony Gates accepted appointment under a Decree setting up a new judiciary. This decree also prohibits enquiries into the abrogation of the constitution and legal challenges of all actions by the interim government since the Dec 5, 2006 coup. Chief Justice Gates and fellow re-appointed judges Davendra Pathik and John Byrne, an Australian, had earlier ruled in the High Court that the Dec 5, 2006 coup was lawful (reftel A). (This ruling was later overturned on April 9, setting the stage for the abrogation of the constitution.) Joining them on the bench are Suvalawyer Sosefo Inoke and Daniel Goundar, a fearless young judge who previously sentenced two soldiers to prison for the murder of civilians in 2007. De facto Attorney General Aiyaz Khaiyum said he is confident he will soon be able to fill the remaining High Court positions. In the meantime, the High Court has re-opened, and, in the absence of the senior Australian, New Zealand and Pacific Judges who usually sit on the Appeal and Supreme Courts, these newly appointed High Court Judges will concurrently sit on the Appeal Court.

DE FACTO GOVERNMENT ASSUMES DUTIES OF FIJI LAW SOCIETY

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12. (SBU) The de facto government moved swiftly over the weekend to implement a new Decree aimed at silencing the Fiji Law Society (FLS). Decree Number 12, signed by President Iloilo, removes the powers of the Council of the Law Society to license and discipline lawyers. These powers now reside with the de facto Attorney General and the Chief Registrar of the High Court. At about midday on May 23, the Acting Chief Registrar, former RFMF Major Ana Rokomokoti obtained the keys to the office of the FLS and seized all of its files containing complaints against lawyers. The FLS is a statutory body established to regulate the legal profession, license lawyers

to practice and to discipline and, if necessary, to expel lawyers who breach the code of ethics and the law. From July 1, all lawyers in Fiji will have to apply to the Chief Registrar to be licensed to offer legal services. These licenses, which had been subject to annual renewal, must now be renewed every six months. The FLS has been a vocal critic since the coup of December 2006, and particularly since the abrogation of the constitution and sacking of the judiciary.

#### GOVERNMENT ACTIONS EXPECTED

13. (SBU) At a May 25 reception hosted by Acting NZ High Commissioner, Ratu Jone Madraiwiwi told the Ambassador the de facto government's actions were not surprising or unanticipated. He said Fiji's lawyers would have no choice but to make the practical decision and abide by the new regulations. He added that there was growing unease within the FLS among most members over the intent of FLS president Dorsami Naidu's desire to oppose the new regulation. The appointment of Chief Justice Gates and the others was a non-controversial event with Gates himself saying over the weekend that his decision to resume the Chief Justice position was an effort to maintain an independent judiciary rather than a political one.

#### COMMENT

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14. (SBU) The unilateral decision by the de facto government to relegate the FLS to a voluntary organization was another predictable action that allows it to circumvent any opposition to its desire to reshape governance in Fiji. It is not surprising that we hear lawyers will accept the new legal order because of their need to maintain their client base.

MCGANN